

IN THE MATTER OF
THE APPLICATION OF
DONALD PARLETT
FOR A SPECIAL HEARING FOR
NONCONFORMING USE ON PROPERTY
LOCATED ON THE EAST SIDE EARLS
BEACH RD., 1073' NORTH OF THE
C/L OF EBENEZER RD AND NE/COR
EARLS BEACH AND BIRD ROADS
5TH COUNCILMANIC DISTRICT

ORDER OF DISMISSAL

The above-entitled matter came on for hearing before this Board on March 6, 1991. The Petitioner appeared represented by Counsel, John B. Gontum, Esquire. Protestants also appeared represented by Harold I. Glaser, Esquire. Counsel for the Petitioner informed this Board on the record that the appeal is being dismissed.

THEREFORE, IT IS HEREBY ORDERED this 13th of March, 1991, by the County Board of Appeals of Baltimore County, that the appeal in the above-entitled matter be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
Michael B. Sauer, Acting Chairman
Harry E. Buchheit, Jr.
Lynn B. Moreland

IN RE: PETITION FOR SPECIAL HEARING
E/S Earls Beach Road, 1073' N
of the c/l of Ebenezer Road
and NE/COR Earls Beach
and Bird Roads
(702 Earls Beach Road)
15th Election District
5th Councilmanic District
Donald Parlett - Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of Parcels 1 and 2 of the subject property as farm and contractor's equipment storage areas, as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by John B. Gontum, Esquire. Also appearing on behalf of the Petition was Alvin Parlett, Petitioner's father, John Messenger and Robert Ledbetter. Frank Lew, a registered professional property line surveyor, also appeared on behalf of the Petition. The following persons appeared as Protestants: George & Brigid Willinger, Charles & Mary Rondo, Verna Smith, Bernard & Madeline Robier, Margaret Sanzone, Charles & Carolyn Carnes, Jr., Delores Kelley, Anthony Bressi, Richard O'Connell, Jr., Charles & Peggy Dear, Jr., Richard McNally, Stanley Mertz and Harold Torbit. The Protestants appointed George Willinger as their spokesperson.

Testimony indicated that the subject property, known as 702 Earls Beach Road, consists of over 75 acres zoned R.C. 2 of which Parcel 1, consisting of 1.85 acres, and Parcel 2, consisting of 2.75 acres, are the subject matter of this Petition. Testimony indicated that the property on which Parcel 2 is located was purchased by the Petitioner in 1970 and the property on which Parcel 1 is located was purchased by the Petitioner in

1981. Petitioner contends that he is entitled to use Parcel 1 for the storage of farm and contractors equipment and Parcel 2 for the storage and repair of farm and contractors equipment. To support his claim, Petitioner indicated that from the early 1900s to some time in the 1960s Parcel 1 was used by Baltimore County for the storage and maintenance of County highway vehicles and equipment. Subsequent to the County's vacating the property in the 1960s, Petitioner's witnesses testified the property was used by various individuals for the repair and painting of vehicles from that period until Petitioner's purchase of the property in 1981. The Petitioner and his witnesses, all property owners on Earls Beach Road in the vicinity of the subject property, indicated that to the best of their knowledge the storage of trucks on Parcel 1 was continuous and without interruption.

The Protestants contest this claim. Mary Rondo, a resident of Leslie Road for the past 30 years, testified she travels Earls Beach Road almost every day. To the best of her recollection, she does not believe there was continuous storage of commercial vehicles at the subject site from 1962 when the County vacated the subject property until approximately 1982. The testimony of George Willinger, a resident of Leslie Road for the past 33 years, was similar to that presented by Ms. Rondo. Madeline Robier, also a resident of Leslie Road, testified that to the best of her recollection, Parcel 1 was not used for at least 1 year after Baltimore County vacated said property.

Testimony presented by Petitioner indicated that his father, Alvin Parlett, has resided on the subject property since 1937. Testimony indicated that for most of those years, he lived in the house adjacent to Parcel 2. Petitioner indicated he and his family have been active in

farming the subject property all his life. Mr. Parlett testified that Parcel 2 has been used continuously for the storage of farm equipment. He indicated that originally, there was a large red shed on the property which was replaced in approximately 1984 by the currently existing blue building constructed with industrial materials. He testified that in addition to the general farm equipment owned by him over the years, the equipment included bulldozers, front-end loaders, and trucks similar to dump trucks. He indicated these vehicles were used for hauling grain and cleaning out hedging among other things. Testimony presented by both Alvin and Donald Parlett was that presently, Parcels 1 and 2 are used for the storage of farm equipment and equipment owned by the A B Trucking Company, a family-owned business. They testified the vehicles owned and used in the operation of the A B Trucking Company are basically similar to the equipment used over the years in the farming operation. Mr. Parlett testified while they ceased servicing vehicles on Parcel 1, said service had been continuous and without interruption on Parcel 2. To support his testimony, Petitioner called Robert Ledbetter and John Messenger, adjoining neighbors and farmers who are residents of Earls Beach Road. Their testimony indicated that they were familiar with Parcel 2 and can verify that the equipment stored on said property over the years in the operation of the farm is similar to that stored for the A B Trucking Company.

To counter Petitioner's testimony, the Protestants called five witnesses. The witnesses testified that to the best of their recollection, Parcel 2 was the site of a barn/shed which was used for the storage of hay and farm vehicles. Thereafter, some time between 1982 and 1984 when the original barn/shed was razed and a new shed placed on the property, the storage and maintenance of commercial vehicles on the property

commenced. The Protestants testified that as a result of such use, there has been a tremendous increase in noise and diesel fumes emanating from the site from early in the morning to late in the evening.

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See Kahl v. Cons. Gas Elec. Light. and Pwr. Co., 191 Md. 249, 254, 60 A.2d 754 (1948); Calhoun v. County Board of Appeals, 262 Md. 265, 277 A.2d 589 (1971).

Section II of those regulations created seven zones, four being residential, one commercial, and two industrial. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

These original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in case a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extend-

ed or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then read:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

On August 4, 1980, the current language found in Section 104.2 was added to the B.C.Z.R. by Bill No. 167-80. This regulation placed an exception upon the general nonconforming rule for Special Exception office buildings. Said provision is inapplicable to this case.

As with all nonconforming use cases, the first task is to determine what lawful nonconforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The second task is to determine whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d, 96 (1978).

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

In this particular instance, with respect to the testimony presented regarding Parcel 1, it is found that a nonconforming use has not been established. Testimony presented clearly establishes that until some

time in the 1960s the property was used by Baltimore County for the storage of County highway maintenance vehicles. It is clear from prior case law that Baltimore County is not subject to the zoning regulations. See In the Matter of Elizabeth W. Glascock, Circuit Court for Baltimore County, Case No. 88-CG-2712 (Zoning Commissioner's case No. 88-182SPH). Pursuant to the terms of Section 103.2 the Petitioner cannot establish a nonconforming use by piggybacking onto the County's use of the property from 1945 to 1960. Section 103.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) states as follows:

"When any public use ceases or when title of unzoned public land passes into private ownership, public land or buildings shall not be used for private purposes until they shall have been zoned in conformance with these Regulations."

Testimony presented at the hearing clearly established that at the time the County ceased using the subject property, Parcel 1 was zoned Rural Agricultural. The storage of contractors equipment is not permitted in said zone. The property's zoning since the County vacated it has at no time permitted a contractors equipment storage yard. Therefore, the Petitioners request for approval of a nonconforming use of Parcel 1 as a farm and contractors equipment storage area must be denied.

In examining the case law and testimony with respect to Parcel 2 of the subject property, the testimony is clear that prior to 1945, Parcel 2 was used by Petitioner's family for the storage and service of farm equipment. In the 1980s, Petitioner changed and expanded the use of the property to store and repair commercial vehicles used by the family-owned business known as the A B Trucking Company. Petitioner argues that since some of the vehicles are similar in size and type, the use is permitted as nonconforming. Even assuming for the purposes of discussion that Petition-

er's storage of the trucks on the property is properly classified as a contractors equipment storage area and not as a Class II trucking facility, which may be more accurate. Petitioner's request must be denied. The zoning of the property in 1982 did not permit such use as a matter of right. The property's current zoning as R.C. 2 continues to disallow its use for the storage of contractors equipment, and therefore, such use must be discontinued unless a valid nonconforming use can be established.

Reviewing the testimony by examining the factors set forth in McKenney, supra, it is clear the current use has a substantially different effect upon the neighborhood than prior to the storage of the contractors equipment of A B Trucking Company in the 1960s. The storage of vehicles prior to 1980 were those primarily used in the operation of the farming business run by Petitioner out of the subject property and numerous other properties farmed by Petitioner's family. The vehicles now stored on the property are significantly greater in number and are involved in a trucking business not necessarily related to farming. The effect on the neighborhood zoned RC2 is vastly different. The vehicles stored and used in the farming operation were not out of character with the zoning classification. The use of the property as a storage yard for a trucking company is a different use. As the Court noted in McKenney, "(a)ll parking lots are not the same and one type of parking use does not necessarily begot or permit another" at 103. For the reasons set forth herein, the Petitioner has failed to show that the subject property is entitled to continue as a nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be denied.

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THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 31st day of March, 1989 that the Petition for Special Hearing to approve the nonconforming use of Parcels 1 and 2 of the subject property as contractors equipment storage areas, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and

IT IS FURTHER ORDERED that Petitioner's use of the subject property, including, but not limited to, Parcels 1 and 2, for contractors equipment storage areas and/or the storage of trucks shall cease within sixty (60) days of the date of this Order; and

IT IS FURTHER ORDERED that upon request and reasonable notice, Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

-9-



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 687-3180
March 13, 1991

John B. Gontrum, Esquire
814 Eastern Boulevard
Baltimore, MD 21221

RE: Case No. 89-267-SPH
Donald Parlett

Dear Mr. Gontrum:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl

cc: Mr. Donald Parlett
Harold I. Glaser, Esquire
Mr. John Messenger
Mr. Alvin Parlett
Mr. Robert Ledbetter
Mr. Frank Lee
Mr. & Mrs. George Willinger
Mr. & Mrs. Bernard Robler
P. David Fields
Pat Koller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Baltimore County Attorney

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

The undersigned, legal owner(s) of the property allude in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a nonconforming use for farm and contractors equipment storage areas on parcels 1 and 2 as designated on the plat.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	Donald Parlett
Signature	(Type or Print Name)
Address	Signature
City and State	(Type or Print Name)
Attorney for Petitioner:	Signature
John B. Gontrum	702 Earls Beach Road - 335-3000
Address	Baltimore, Maryland 21220
City and State	City and State
Essex, Maryland 21221	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State	Name
Attorney's Telephone No. 686-8274	Address
	Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 1st day of January, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property to be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 17th day of January, 1989, at 10:30 clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING - 1/2 HR. (1 HR.)
AVAILABLE FOR HEARING
MORNING - NEXT TWO MONTHS
REVIEWED BY: *[Signature]* DATE: *[Signature]*
OTHER: *[Signature]*

Phone: 687-6922

FRANK S. LEE
Registered Land Surveyor

1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

June 7, 1988

Parcel 1
East side of Earl's Beach Road
15th District Baltimore County, Maryland

Beginning for the same on the east side of Earl's Beach Road at the distance of 1073 feet more or less measured in a northerly direction from the center of Ebenezer Road, thence running and binding on the east side of Earl's Beach Road North 1 degree 30 minutes East 430 feet, thence leaving Earl's Beach Road for four lines of division as follows: South 88 degrees 30 minutes East 250 feet more or less, South 29 degrees 05 minutes West 150 feet, South 6 degrees 05 minutes West 300 feet and North 88 degrees 30 minutes West 150 feet more or less to the place of beginning.

Containing 1.85 acres of land more or less.

Parcel 2

Beginning for the same at the northeast corner of Earl's Beach and Bird Roads, thence running and binding on the east side of Earl's Beach Road North 1 degree 30 minutes East 400 feet, thence leaving Earl's Beach Road for two lines of division as follows: South 88 degrees 30 minutes East 300 feet and South 1 degree 30 minutes West 400 feet to the north side of Bird Road, thence binding on the north side thereof North 88 degrees 30 minutes West 300 feet to the place of beginning.

Containing 2.75 acres of land more or less.



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 1574 Date of Posting 4/1/89
Posted for: *[Signature]*
Petitioner: *[Signature]*
Location of property: *[Signature]*
Location of Sign: *[Signature]*
Remarks: *[Signature]*
Posted by: *[Signature]* Date of return: 4/6/89
Number of Signs: 2

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 1574 Date of Posting 5/1/89
Posted for: *[Signature]*
Petitioner: *[Signature]*
Location of property: *[Signature]*
Location of Sign: *[Signature]*
Remarks: *[Signature]*
Posted by: *[Signature]* Date of return: 5/10/89
Number of Signs: 2

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 3, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on December 29, 1988.

THE JEFFERSONIAN,

[Signature]
Publisher

PO 0789
reg M 25122
case 89-267-SPH
price \$37.50

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

January 11, 1989

John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Item No. 79, Case No. 89-267-SPH
Petitioner: Donald Parlett
Petition for Special Hearing

Dear Mr. Gontrum:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

[Signature]
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures

cc: Frank S. Lee
1277 Neighbors Avenue
Baltimore, Maryland 21237

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3354

October 11, 1988

Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

RECEIVED ZONING OFFICE
DATE: 10/12/88

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 69, 75, 76, 77, 79, 81, 82, 83, 84, & 85.

Very truly yours,

Michael S. Flanagan
Traffic Engineer Associate II

MSP:lab

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

September 12, 1988

Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Re: Property Owner: Donald Parlett, Critical

Location: E/S Earl's Beach Road, 1,073' N. of c/1 of Ebenezer Road

Item No.: 78 Zoning Agenda: Meeting of 9/6/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill* Noted and Approved: *John F. O'Neill*
Planning Group Fire Prevention Bureau
Special Inspection Division

/s/

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333
J. Robert Haines
Zoning Commissioner

May 4, 1989

Dennis F. Rasmussen
County Executive

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
E/S Earl's Beach Road, 1073' N. of the c/1 of Ebenezer Road and
NE/Corner Earl's Beach and Bird Roads
(702 Earl's Beach Road)
15th Election District, 5th Councilmanic District
DONALD PARLETT - Petitioner
Case No. 89-267-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on April 21, 1989, by John B. Gontrum, Attorney on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:cer

Enclosures

cc: Donald Parlett, 702 Earl's Beach Road, Baltimore, MD 21220
John B. Gontrum, 809 Eastern Boulevard, Essex, MD 21221
John Messenger, 702 Earl's Beach Road, Baltimore, MD 21220
Alvin Parlett, 1004 Earl's Beach Road, Baltimore, MD 21220
Robert Ledbetter, 736 Earl's Beach Road, Baltimore, MD 21220
Frank Lee, 1277 Neighbors Avenue, Baltimore, MD 21237
Mr. & Mrs. George Willinger, 6832 Leslie Road, Baltimore, MD 21220
Mr. & Mrs. Bernard Robier, 6864 Leslie Road, Baltimore, MD 21220
People's Counsel, Rm. 304, County Office Bldg., Towson, Md. 21204

File

APPEAL

Petitioner for Special Hearing
E/S Earl's Beach Road, 1073' N. of the c/1 of Ebenezer Road
and NE/Corner Earl's Beach and Bird Roads
(702 Earl's Beach Road)
15th Election District - 5th Councilmanic District
DONALD PARLETT - Petitioner
Case No. 89-267-SPH

Petition for Special Hearing ✓

Description of Property ✓

Certificate of Posting ✓

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments ✓

Director of DEPRM Comments ✓

Director of Planning & Zoning Comments (None submitted)

Petitioner's Exhibits: 1 & 2 - Plats to accompany Petition ✓

3 - Four 3"x5" photographs of site ✓

4 - Twelve 3"x5" photographs of site ✓

5 - OP2 photographic map ✓

6 - Photographic map of Balto. Co./Metro area ✓

Protestant's Exhibits: 1 & 2 - Photographic maps ✓

Zoning Commissioner's Order dated March 31, 1989 (Denied) ✓

Notice of Appeal received April 21, 1989 from John B. Gontrum, ✓

Attorney on behalf of the Petitioner.

cc: Donald Parlett, 702 Earl's Beach Road, Baltimore, MD 21220

John B. Gontrum, 809 Eastern Boulevard, Essex, MD 21221

John Messenger, 702 Earl's Beach Road, Baltimore, MD 21220

Alvin Parlett, 1004 Earl's Beach Road, Baltimore, MD 21220

Robert Ledbetter, 736 Earl's Beach Road, Baltimore, MD 21220

Frank Lee, 1277 Neighbors Avenue, Baltimore, MD 21237

Mr. & Mrs. George Willinger, 6832 Leslie Road, Baltimore, MD 21220

Mr. & Mrs. Bernard Robier, 6864 Leslie Road, Baltimore, MD 21220

People's Counsel, Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning

Patrick Keller, Office of Planning & Zoning

John B. Gontrum, Zoning Commissioner

Ann M. Nastarowicz, Deputy Zoning Commissioner

James E. Dyer, Zoning Supervisor

Docket Clerk: Arnold Jablon



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

July 6, 1989

Harold I. Glaser, Esquire
Suite 1717
201 N. Charles Street
Baltimore, MD 21201

RE: Case No. 89-267-SPH
Donald Parlett

Dear Mr. Glaser:

The Board is in receipt of your letter of June 29, 1989, and we have entered you in the subject file as Counsel for the Earl's Beach Improvement Association, Protestants in this matter.

With regard to your request to have the file duplicated, effective July 1, 1989, the cost of a photocopy of any Baltimore County document from any County agency is \$1.00 per copy. Therefore, the cost to have the subject file copied would be approximately \$20.00, plus an additional \$6.00 should you wish to have copies of the exhibits presented before the Zoning Commissioner. However, any plats contained within the file cannot be copied by this office, but would necessitate someone from your office requesting these copies through the County's Engineering Division on the second floor of this building. Payment for the cost of the plats would be handled through Engineering.

Should you still wish to have this file copied, please contact this office any time after July 7, and arrangements can be made to have this done for you.

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

cc: Mr. Bernard C. Robier, Sr.
John B. Gontrum, Esquire

P.S. Enclosed is a copy of the Notice of Assignment; this case is set for hearing on Tuesday, October 17, 1989 at 10:00 a.m.



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Building
October 13, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-267-SPH

DONALD PARLETT
E/S Earl's Beach Road, 1073' N. of the c/1 of Ebenezer Road and NE/Corner Earl's Beach and Bird Roads (702 Earl's Beach Road)
15th Election District
5th Councilmanic District

SPH - nonconforming use for farm and contractors equipment storage areas on parcels 1 and 2 as designated on plat.

03/31/89 - D.Z.C. Order DENYING Petition for Special Hearing for nonconforming use

ASSIGNED FOR: TUESDAY, OCTOBER 17, 1989 at 10:00 a.m.

cc: Mr. Donald Parlett Petitioner/Appellant
John B. Gontrum, Esq. Counsel for Petitioner/Appellant
John Messenger
Alvin Parlett
Robert Ledbetter
Frank Lee
Mr. & Mrs. George Willinger
Mr. & Mrs. Bernard Robier
People's Counsel
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk - Zoning
Arnold Jablon, County Attorney

LindaLee M. Kuszmaul
Legal Secretary



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Building
December 5, 1990

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-267-SPH

DONALD PARLETT
E/S Earl's Beach Road, 1073' N. of the c/1 of Ebenezer Road and NE/Corner Earl's Beach and Bird Roads (702 Earl's Beach Road)
15th Election District
5th Councilmanic District

SPH - nonconforming use for farm and contractors equipment storage areas on parcels 1 and 2 as designated on plat.

03/31/89 - D.Z.C. Order DENYING Petition for Special Hearing for nonconforming use

ASSIGNED FOR: WEDNESDAY, MARCH 6, 1991 at 10:00 a.m.

cc: Mr. Donald Parlett Petitioner/Appellant
John B. Gontrum, Esq. Counsel for Petitioner/Appellant
John Messenger
Alvin Parlett
Robert Ledbetter
Frank Lee
Mr. & Mrs. George Willinger
Mr. & Mrs. Bernard Robier
People's Counsel
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk - Zoning
Arnold Jablon, County Attorney
Harold I. Glaser, Esquire - Counsel for Earl's Beach Impr. Assoc./Protestants

LindaLee M. Kuszmaul
Legal Secretary

IN RE: PETITION FOR SPECIAL HEARING
E/S Earl's Beach Road, 1073' N. of the c/1 of Ebenezer Road (702 Earl's Beach Road)
Donald Parlett
Petitioner
* BEFORE THE
* ZONING COMMISSIONER
* BALTIMORE COUNTY
* CASE NO. 89-267-SPH

APPEAL

DEAR ZONING COMMISSIONER:

Please enter an appeal to the Board of Appeals for Baltimore County in the above referenced case on behalf of the Petitioner.

John B. Gontrum
Romadka, Gontrum & Hennegan
809 Eastern Boulevard
Essex, Maryland 21221
686-8274
Attorney for Petitioner.

I HEREBY CERTIFY that on this 1st day of April, 1989, a copy of the foregoing was mailed postage prepaid to People's Counsel, Court House, Towson, Maryland 21204.

John B. Gontrum

RECEIVED
APR 31 1989 (O.K. - w)
ZONING OFFICE

LAW FIRM
ROMADKA,
GONTRUM
& HENNEGAN
ESSEX, MARYLAND

6/12/89

Following parties notified of hearing set for Tuesday, October 17, 1989 at 10:00 a.m.:

Mr. Donald Parlett
John B. Gontrum, Esq.
John Messenger
Alvin Parlett
Robert Ledbetter
Frank Lee
Mr. & Mrs. George Willinger
Mr. & Mrs. Bernard Robier
People's Counsel
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk - Zoning
Arnold Jablon, County Attorney

7/06/89 -Entered Harold I. Glaser, Esq. as Counsel for Earls Beach Improvement Association, Protestants; sent copy of Notice of Assignment; responded to his request for copy of file. (see our letter of 7/06/89)

10/17/89 - Postponed on the record by agreement of counsel. No reset date at this time.

8/8/90 - Per telephone conversation with Harold Glaser, Esquire and William T. Hackett, Mr. Glaser and the community met with Donald Parlett yesterday (8/7/90) and have reached a tentative agreement on all the issues in question. This, however, may not come to pass until Mr. Gontrum gets approval from all the Baltimore County agencies involv i.e. wetlands, DEPRM, etc. Do not set in for hearing until we check with John Gontrum on his success with these agreements.

12/5/90 - Letter received from Protestants requesting that matter be set in for hearing.

12/5/90 - Above parties notified of hearing set for March 6, 1991 at 10:00 a.m. Harold I. Glaser, Esquire added.

3/05/91 -Per J. Gontrum, Counsel for Petitioner/Appellant, will dismiss appeal on record 3/06/91. Contacted Board members; Sauer to sit; one-man Board.

3/06/91 -Appeal W/D and dismissed on record as indicated above; Sauer.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: November 28, 1988

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Special Exception Item #78
Donald J. Parlett

RECEIVED ZONING OFFICE
DATE: 12/1/88

On November 4, 1988 a meeting was held with Mr. John Gontrum to discuss the Parlett property and the issue of non-conforming uses within the Chesapeake Bay Critical Area. In attendance from the Department of Environmental Protection and Resource Management was Mr. David Flowers, Mr. Jeremy Criss, Ms. Nancy Sanford and Ms. Karen Caples.

This letter will serve as a revision of our comments dated August 5, 1988.

The Chesapeake Bay Critical Area Law states:

"After program approval, local jurisdictions shall permit the continuation, but not necessarily the intensification or expansion, of any use in existence on the date of program approval, unless the use has been abandoned for more than one year or is otherwise restricted by existing local ordinances." COMAR 14.15.02.07 A).

In accordance with the above law, and in the spirit of the Chesapeake Bay Critical Area Program, we would support relocation of the land use on Parcel 1 to another portion of Mr. Parlett's property. Specifically, we would like to have the present and proposed truck storage facility moved to another location at least 100 feet landward from Nottingham Creek.

If you have any questions, please contact Mr. David Flowers at 887-3980.

Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:MLC:tjg

cc: The Honorable Ronald B. Hickernell

8/08/90

T/C from Frank DiMaglio in Zoning Violations Extension 8090

Called regarding 89-267-SPH (Donald Parlett)

Zoning Violations is in the process of citing him for violations, of which there are many. Conditions are terrible.

Zoning has received several calls from the neighbors; Frank asks that we set this matter in for hearing as quickly as possible. I told him we have heard nothing from the attorney for the protestants in this matter since the case was postponed on the record in October of 1989. He said the whole issue of counsel seems vague and confused to him.

He would like to talk with you regarding this --mainly, can we set this in at his request without receiving any such request from parties of record (denied in Zoning; appealed by Gontrum on behalf of Petitioner; Gontrum requested postponement).

I told him we would get back to him some time on Wednesday (8/09/90)

kathi

OCT 31, 10:30

HAROLD I. GLASER
LAW OFFICES OF
SUITE 807
CENTRA SAVINGS BANK BUILDING
200 N. CHARLES ST.
CHARLES AND LEXINGTON STREETS
BALTIMORE, MARYLAND 21204
(301) 244-8822

June 29, 1989

County Board of Appeals of
Baltimore County
County Office Bldg.
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: 702 Earls Beach Road
Case No: 89-267-SPH
Protestant: Donald Parlett

Dear Sir/Madam:

Please be advised that this office represents
Earls Beach Improvement Association, Protestants
in the above matter.

At your convenience, please have a representative
from your office contact us in order that we can make
arrangements to review and duplicate the file materials.
Please enclose also a schedule of costs in order that
we may be fully prepared to pay all outstanding
administrative costs.

If you have any questions, please feel free to
contact our office.

Very truly yours,

Harold I. Glaser

HIG/lmf

cc: Mr. Bernard C. Robier, Sr.
John B. Gontrum, Esquire

RECEIVED
COUNTY BOARD OF APPEALS
JUL 3 12:12 PM '89

Earl's Beach Improvement
Association

C/O 6864 Leslie Rd., Baltimore, Md. 21220 (301) 335-4290
Bernard Robier, President
Richard McNally, Secretary

7 October 1990

Board of Appeals of Baltimore County
Towson, MD 21204

Dear Sir:

The members of the Earls Beach Improvement Association have unanimously voted to ask that a hearing be expeditiously scheduled upon Mr. Donald Parlett's appeal, Case No. 89-267-SPH. If Mr. Donald Parlett is not willing or prepared to perfect their appeal of the Zoning Commissioners findings from January 1989, then we request that Mr. Parlett withdraw his appeal, discontinue his operations in violation of current zoning ordinances, and implement the Zoning Commissioner's orders from the January 1989 hearing.

Since filing for non-conforming use back in 1988, Mr. Parlett has proceeded upon a course of industrialization which has expanded his use from a six-dump truck hauling operation to now include a variety of excavation, hauling, and construction equipment used to support "road building" operations. The site has also been used as a dump, landfill and storage site for debris by Mr. Parlett. Mr. Parlett appears to be using the delay associated with the pending appeal before the Board of Appeals to expand industrial activities to new business uses well beyond even the original request for a non-conforming use. These actions have created an unacceptable situation which our association feels should be settled as quickly as possible.

The Earls Beach Improvement Association applauds the Baltimore County Zoning Enforcement Office efforts to cite Mr. Parlett's criminal violations of the zoning ordinances and members of our association are cooperating with county officials in prosecuting the Baltimore County's case in District Court.

Sincerely,

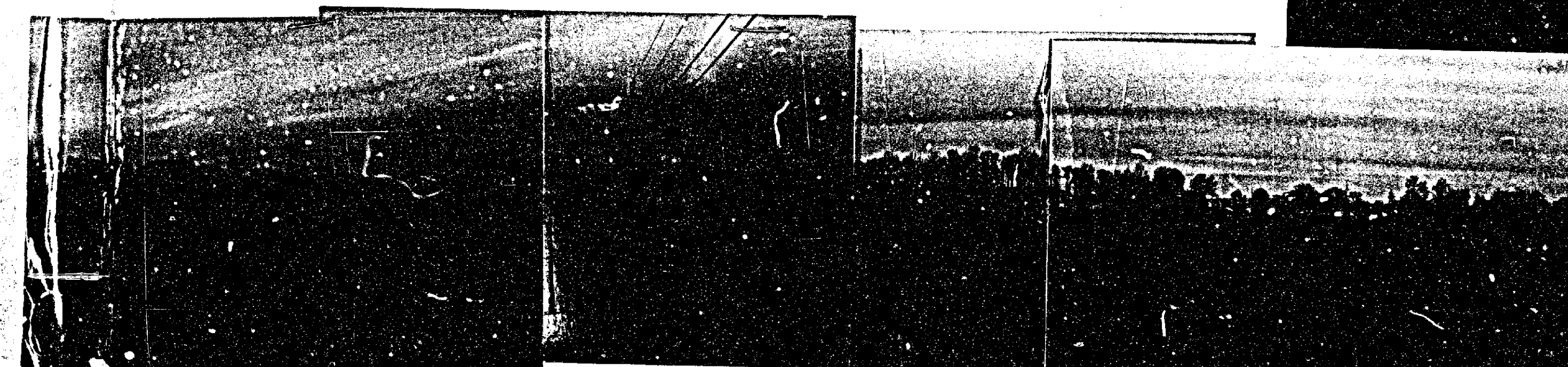
Bernard Robier
Bernard Robier
President

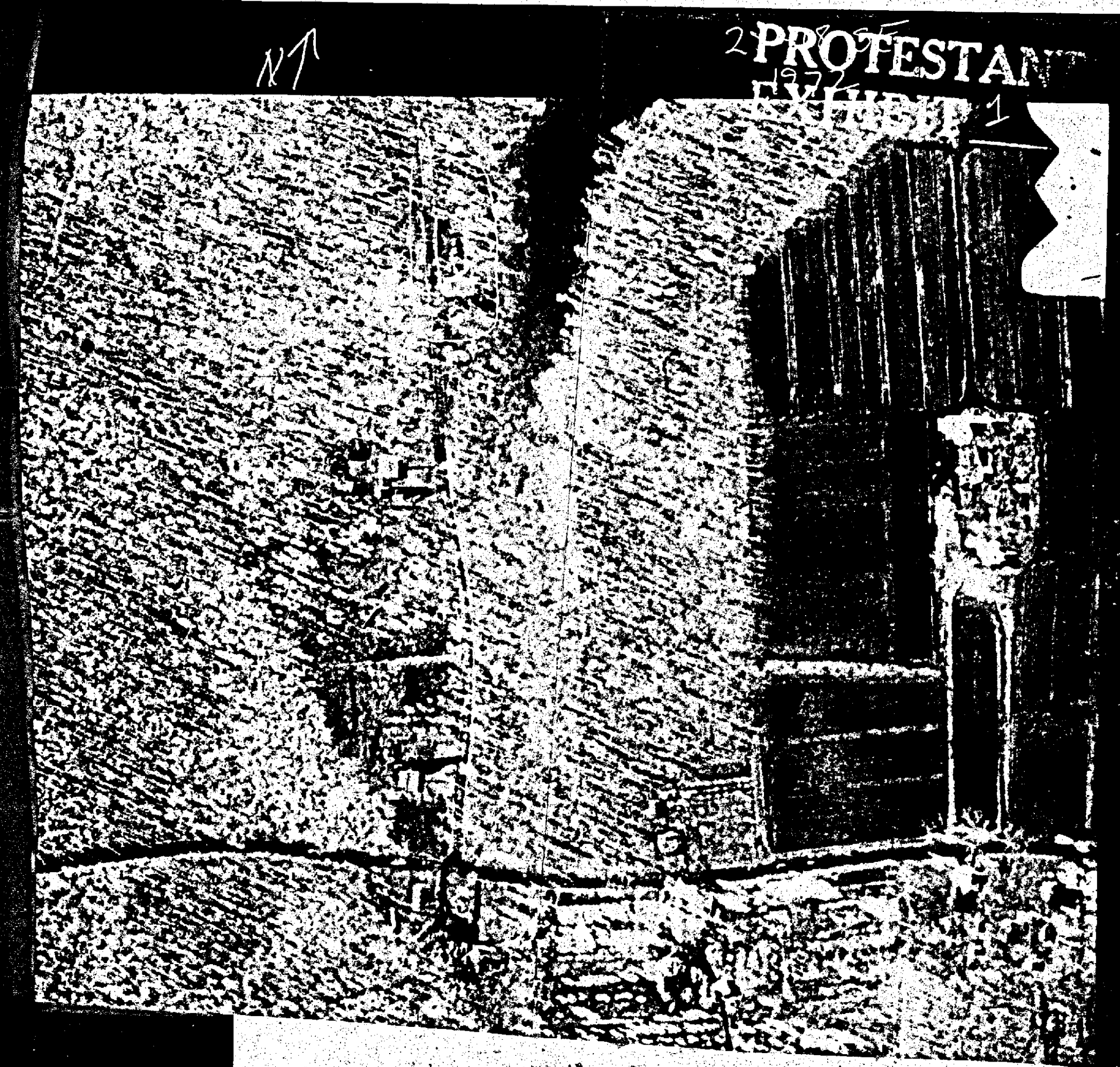
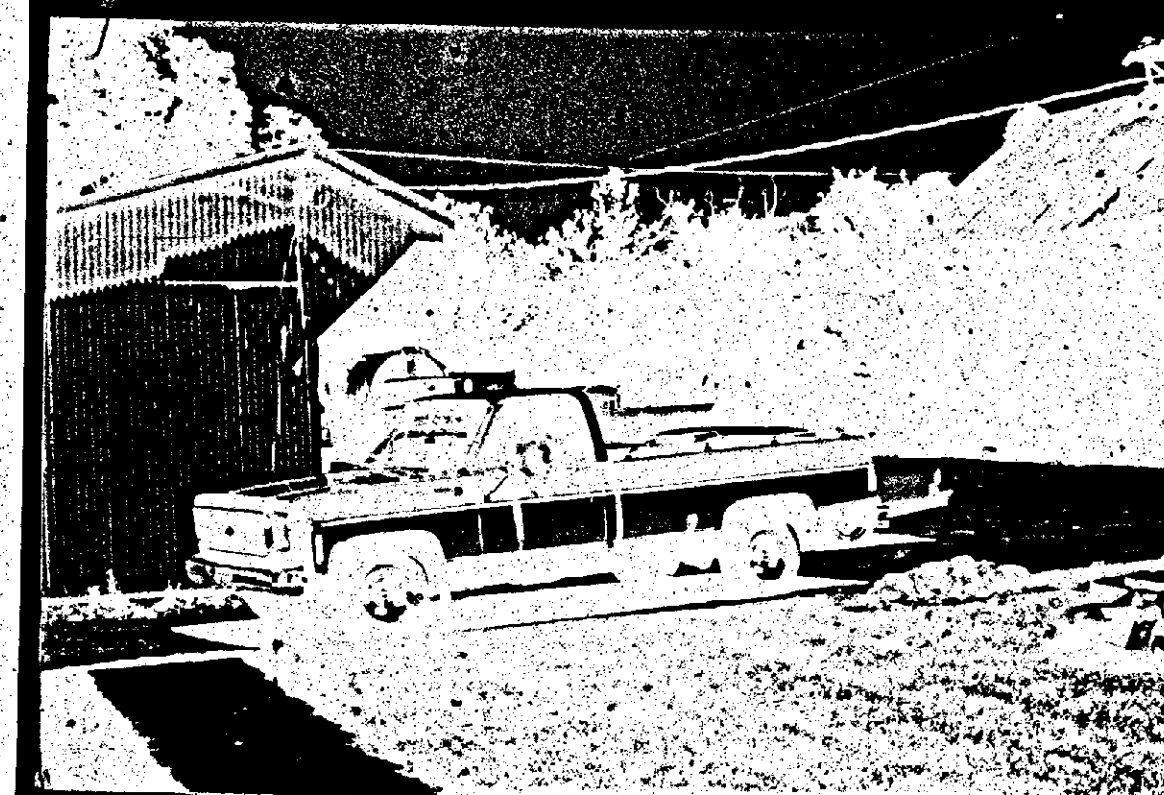
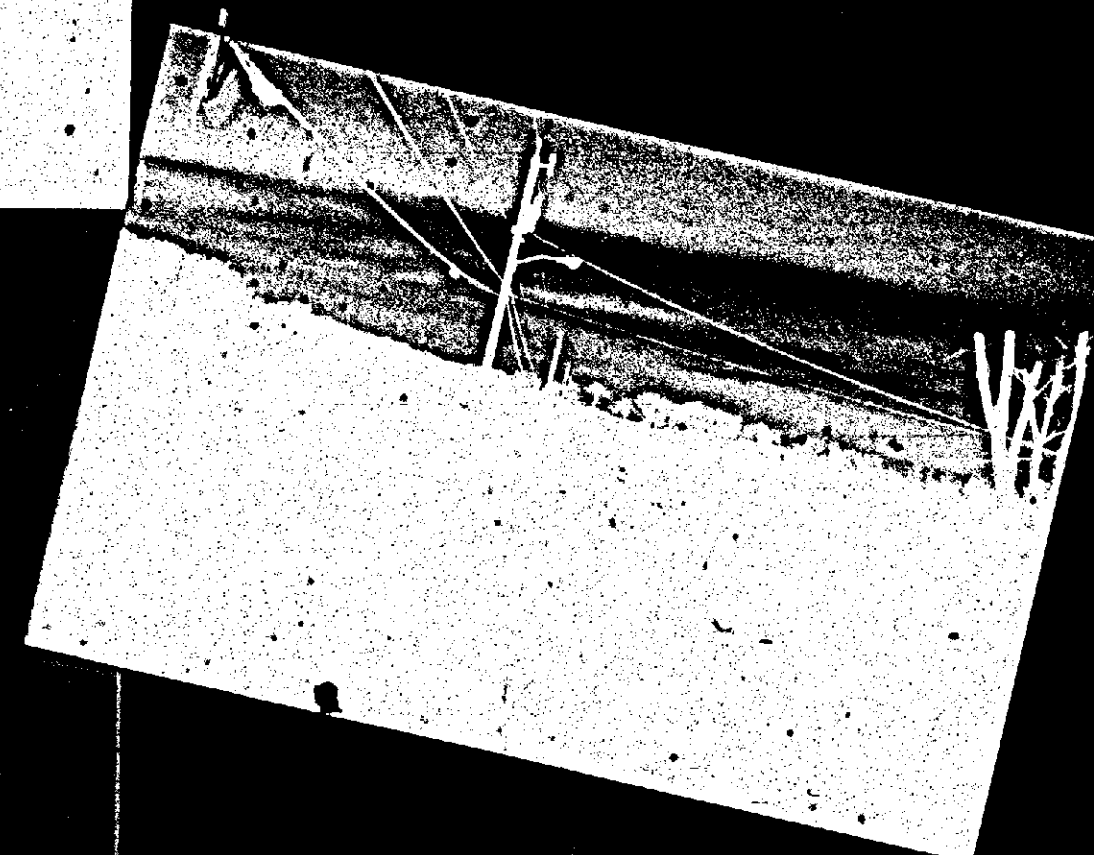
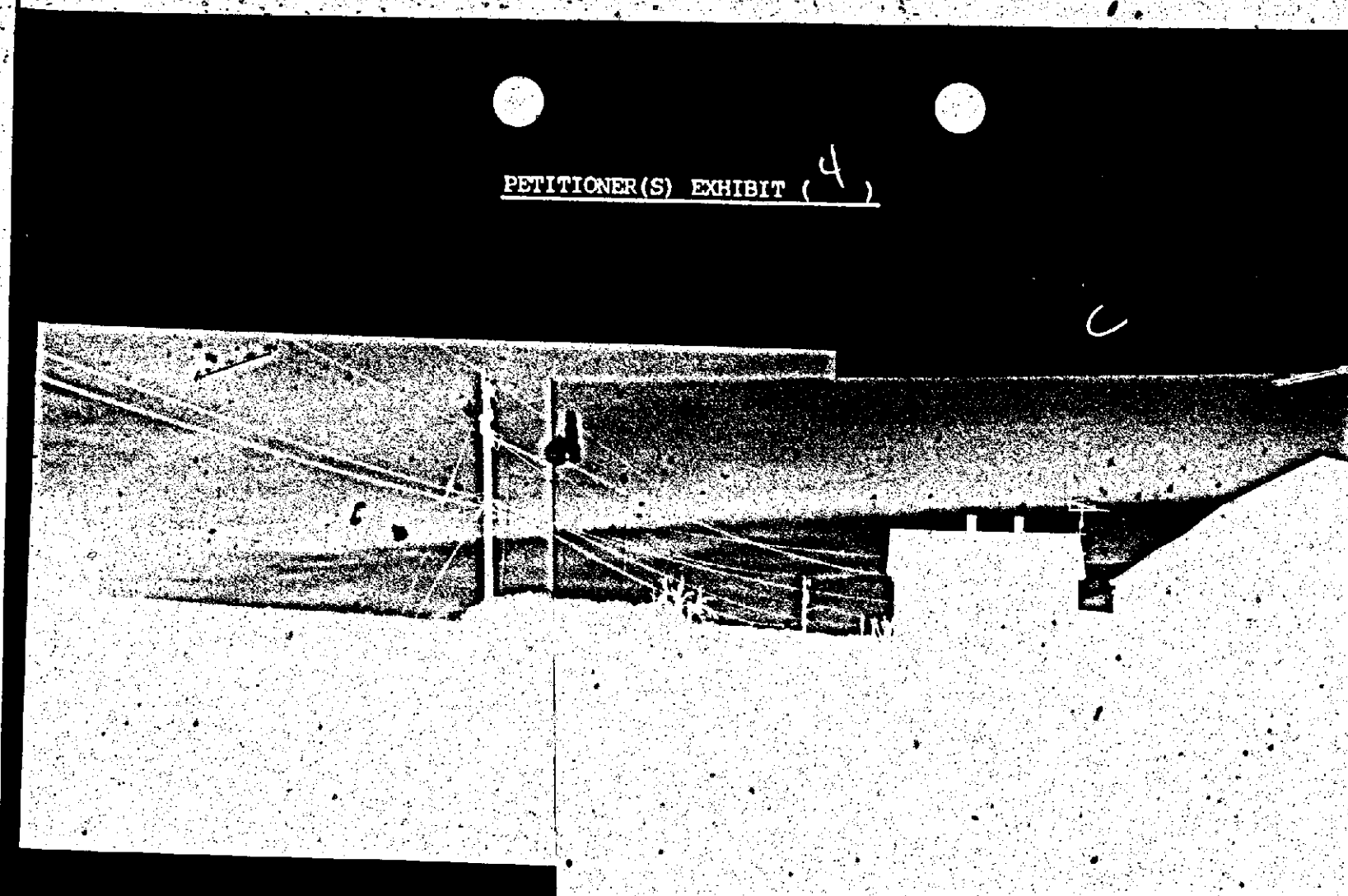
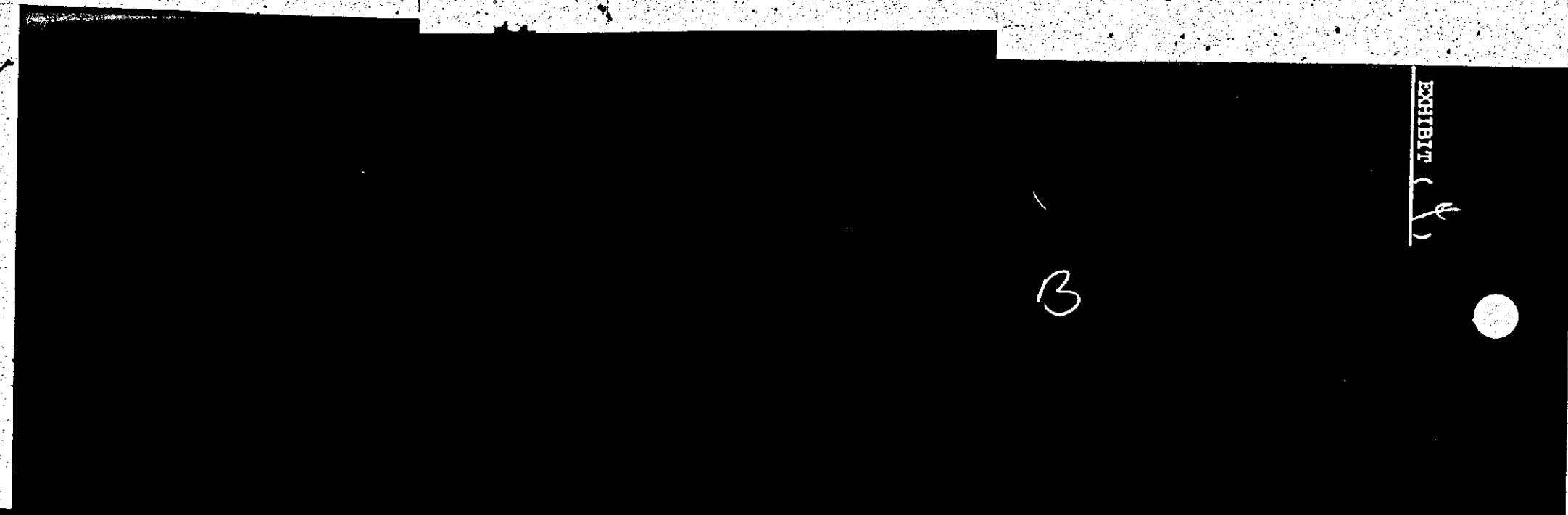
10 OCT 31 1990
BALTIMORE COUNTY

PETITIONER(S) EXHIBIT (3)



PETITIONER(S) EXHIBIT (3)

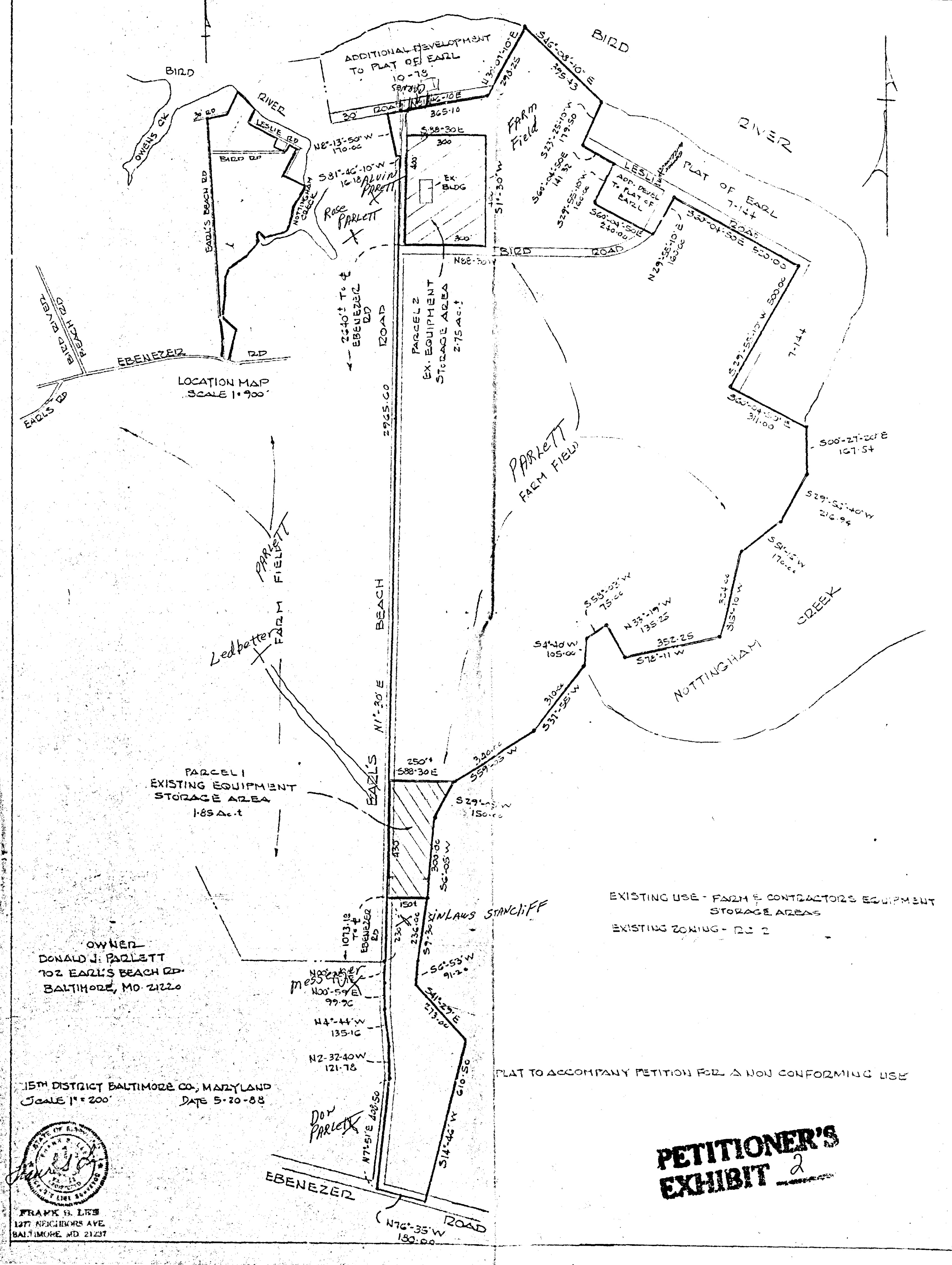
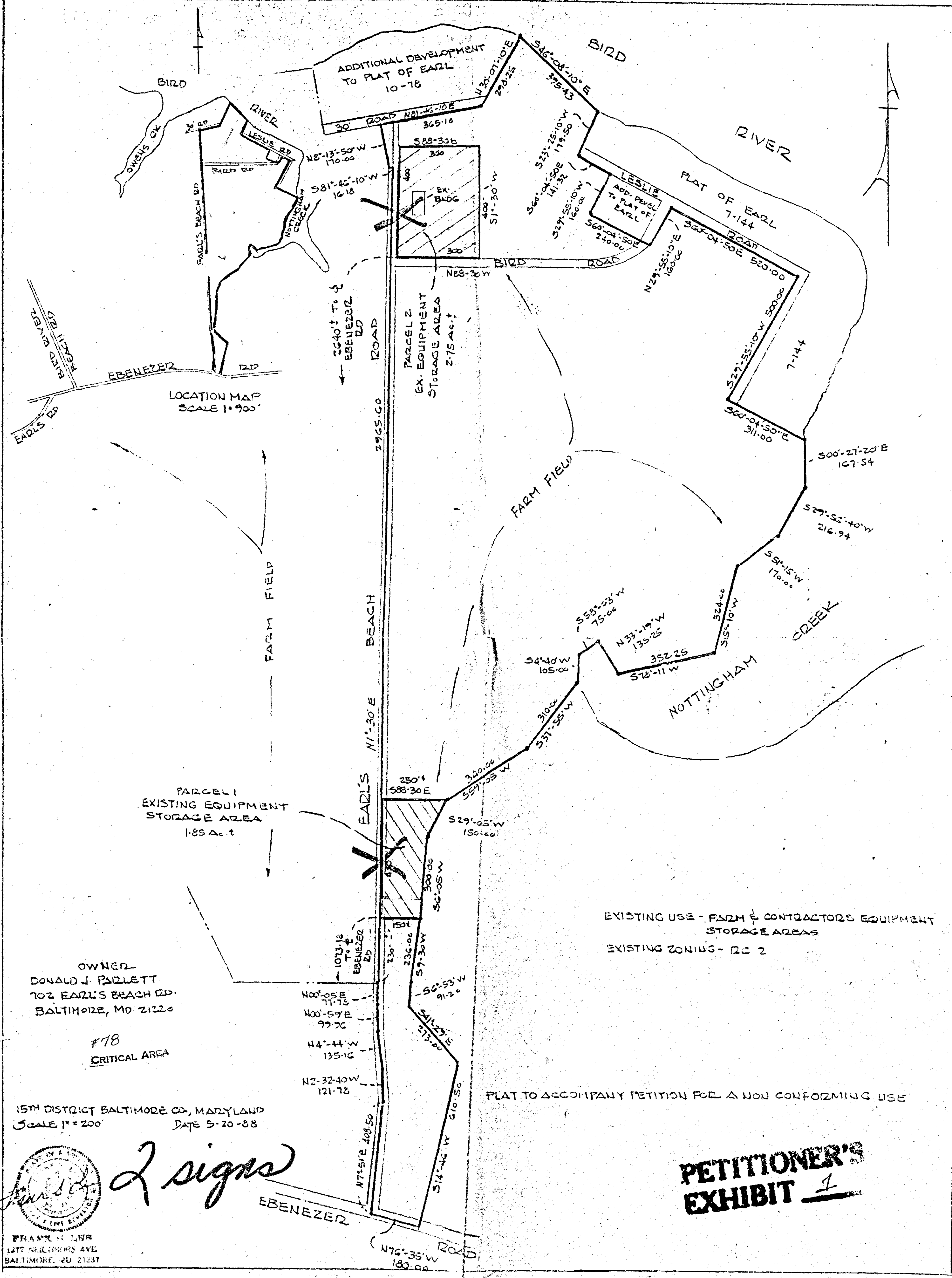




PROTESTANT
EXHIBIT 2

1982

AIRIAL DATA REDUCTION ASSOCIATES, INC.
BIRMINGHAM, AL 35202
30-5





BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE
1" = 200' ±

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION
HAREWOOD PARK
CHA

SHEET
PETITIONER'S
EXHIBIT
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